

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION IV

CACR06-314

October 25, 2006

MONROE TALBERT WHITE
APPELLANT

APPEAL FROM THE
INDEPENDENCE COUNTY CIRCUIT
COURT
[CR04-14]

V.

HON. JOHN DAN KEMP, JR.,
CIRCUIT JUDGE

STATE OF ARKANSAS
APPELLEE

AFFIRMED

An Independence County jury convicted Monroe Talbert White of aggravated robbery and sentenced him as a habitual offender to eighty years' imprisonment. On appeal, he contends that the evidence was insufficient to support a finding that he committed aggravated robbery. We affirm.

In support of its case, the State presented testimony from victim Barbara Rorie. She stated that on January 14, 2004, White and another man came into the Little Red Store where she was employed. Rorie stated that she was confident that the men came in together. One of the men was wearing a mask and holding a gun. He ordered her to "get on the floor" three times. At the same time, the other man in the store (identified as White) "walked straight to the cash register." She further testified that White "went to the cash register and was trying

to get into it. And he couldn't do it." She noted that, "while lying on the floor on [her] stomach with the guy with a gun at my head, [I] told him how to do it." However, she testified that White was still unable to open the register, so "he made the guy let me get up and come up there to the cash register."

After showing White how to open the register, Rorie laid back down on the floor. The assailants decided to take the whole drawer and started out the door. According to Rorie, before leaving the store, "they grabbed cigarettes and cigars." When the two got to the door, they stopped. "[T]hat's when I thought they was [sic] going to shoot me," Rorie recounted. She recalled that White was "bossy" to the other man and "was the one that was giving orders to everybody." She testified that she had no doubt that White was involved with the robbery.

Additional testimony was presented from co-defendants Matthew Burns and Bartley Levitt. Burns testified that he, Levitt, and White discussed the robbery, then went to pick up a gun from Jeremy Palmer. According to Burns, they first pulled over to rob a gas station in Locust Grove but determined that there were too many people coming in and out. So, they drove to the nearby Little Red Store with the intent to commit robbery.

Burns testified that White walked into the store first and went directly to the cash register but was unable to open it. Once the clerk showed them how to open the register, Burns stated that White took the money from the register. He also testified that the robbery was not a spontaneous act—that he, White, and Levitt planned to rob the store. Levitt

testified that White was the one who told him to bring a gun. According to Levitt, White observed Burns put on a ski mask before the three of them exited the car.

A directed-verdict motion is a challenge to the sufficiency of the evidence.¹ *Taylor v. State*, 77 Ark. App. 144, 72 S.W.3d 882 (2002). When the sufficiency of the evidence is challenged on appeal from a criminal conviction, we review the evidence and all reasonable inferences in the light most favorable to the State and will affirm if the finding of guilt is supported by substantial evidence. *Brown v. State*, 74 Ark. App. 281, 47 S.W.3d 314 (2001). Substantial evidence is evidence of sufficient certainty and precision to compel a conclusion one way or another that passes beyond mere speculation or conjecture. *Reinert v. State*, 348 Ark. 1, 71 S.W.3d 52 (2002).

A person commits robbery if, “with the purpose of committing a felony or misdemeanor theft or resisting apprehension immediately thereafter, he employs or threatens to immediately employ physical force upon another.” Ark. Code Ann. § 5-12-102(a) (Repl. 1997). A person commits aggravated robbery if he commits robbery and is armed with a deadly weapon, or he represents by word or conduct that he is so armed. *See* Ark. Code Ann. § 5-12-103(a)(1) (Repl. 1997). The focus of the proof for aggravated robbery is the threat of harm to the victim, and, consequently, the offense is complete when physical force is

¹ At the outset we admonish White for his failure to abstract his directed-verdict motion. This omission represents a fundamental failure to abide by our court’s abstracting rules. *See* Ark. Sup. Ct. R. 4-2(a)(5). In the not-so-distant past, this oversight would have served as a bar to consideration of the appeal on its merits. *See Spears v. State*, 82 Ark. App. 376, 109 S.W.3d 139 (2003). However, because the record establishes that the issue was properly preserved for our review, in the spirit of judicial economy will we reach the merits of White’s appeal. *See Ferguson v. State*, 343 Ark. 159, 33 S.W.3d 115 (2000) (stating that we may go to the record to affirm).

threatened. *Robinson v. State*, 303 Ark. 351, 797 S.W.3d 425 (1990). Further, a person is criminally responsible for the conduct of another person when he is an accomplice in the commission of an offense. *Cook v. State*, 350 Ark. 398, 86 S.W.3d 916 (2002). There is no distinction between the criminal liability of an accomplice and the criminal liability of the person who actually commits the offense. *Id.*

On appeal, White argues that because he “was unaware that a robbery was about to take place when he entered the Little Red Store,” he “lacked the purpose required to convict him” of aggravated robbery. White notes that he was not “armed with any weapon” and did not harm or attempt to harm anyone during the commission of the crime. White also directs our attention to *Green v. State*, 265 Ark. 179, 577 S.W.2d 586 (1979), where the supreme court reversed the trial court’s decision, recognizing that other than Green’s presence in the vehicle there was no evidence or testimony linking him to the robbery at issue.

However, the testimony of the victim and the co-defendants place White at the scene of the crime and outline his active involvement in the aggravated robbery. The fact that White did not personally carry out each act that made up the crime as a whole does not allow him to disclaim responsibility for the crime. *See Alfay v. State*, 15 Ark. App. 32, 688 S.W.2d 951 (1985) (finding that evidence of the victim’s apprehension coupled with appellant’s criminal conduct was sufficient to compel a conclusion that the victim was responding to appellant’s commands in the belief that he carried a weapon and that she would be harmed if she failed to follow his instructions). Because there is substantial evidence supporting

White's conviction for aggravated robbery, the decision of the trial court denying White's motion for directed verdict is affirmed.

Affirmed.

GRIFFEN and ROAF, JJ., agree.